

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
August 9, 2010

**D056428     Sheldon v. Pacific Beach Development, LLC et al.**

**D057820     Sheldon v. Pacific Beach Development, LLC et al.**

Appellants' unopposed motion to consolidate the above-entitled appeals is granted. All documents will be filed under D056428. Appellants' unopposed application for an extension of time to file the Appellants' Opening Brief is granted. Appellants' Opening Brief is due 30 days from the filing of the record in D057820. No further extensions are contemplated.

**D055592     People v. Dawes**

The judgment is affirmed. The case is remanded to the trial court with directions to correct the abstract of judgment to reflect a sentence on count 2 of eight months, one-third the middle term. The court shall forward the corrected abstract of judgment to the Department of Corrections and Rehabilitation.  
Nares, J.; We Concur: Benke, Acting P.J., Haller, J.

**D056602     In re Kassandra M. et al, Juveniles**

The findings and orders are affirmed.  
Benke, Acting P.J.; We Concur: Haller, J., McDonald, J.

**D055087     People v. Jones**

The judgment is affirmed. Aaron, J.; We Concur: Haller, Acting P.J.; McIntyre, J.

**D056095     People v. McClain**

The judgment is affirmed.  
Huffman, Acting P.J.; We Concur: Haller, J., McIntyre, J.

**D055512     In re Vincente G., a Juvenile**

The order is affirmed.  
Huffman, Acting P.J.; I Concur: O'Rourke, J.; I Dissent: McIntyre, J. (opinion)

**D054992     Davenport v. Interactive Communications International, Inc.**

The order denying class certification is affirmed. InComm to recover its costs on appeal. Benke, Acting P.J.; We Concur: Huffman, J., O'Rourke, J.

Court convened at 9:00 a.m.

Present:     The Honorable Judith McConnell, Presiding Justice, and  
                 The Honorable Associate Justices Judith Haller and Alex McDonald  
Clerk:        D. Moore

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August 9, 2010 (Continued)

**D055436     People v. Realmuto**

Cause called on merits. Amanda Benedict, Esq. argued for appellant. Jordan Ferguson, Certified Law Student, argued for respondent. Ms. Benedict replied. Cause submitted.

**D055440     People v. Henry**

Cause called on merits. Marianne Harguindeguy, Esq. argued for appellant. Jenifer Gustafson, Certified Law Student, argued for respondent. Cause submitted.

**D054120     People v. Butler**

Cause called on merits. Carl Fabian, Esq. argued for appellant. Stephanie Chow, Deputy Attorney General, argued for respondent. Mr. Fabian replied. Cause submitted.

Court recessed at 9:52 a.m. to change panel members.

New panel members:     The Honorable Judith Haller, Acting Presiding Justice, and  
                                     The Honorable Associate Justices Alex McDonald and Terry O'Rourke

**D055825     Smith v. Hance et al.**

Cause called on merits. Gregory D. Smith argued for appellant in pro per. Jennifer Hance argued for respondent in pro per. Mr. Smith replied. Cause submitted.

Court recessed at 10:09 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present:             The Honorable Judith McConnell, Presiding Justice, and  
                                 The Honorable Associate Justices Judith Haller and James McIntyre

**D054325     People v. Nelson**

Cause called on merits. Gary V. Crooks, Esq. argued for appellant. Christina Dinh, Certified Law Student, argued for respondent. Mr. Crooks replied. Cause submitted.

**D055504     People v. Doucette**

Cause called on merits. Stephen Merritt Hinkle, Esq. argued for appellant. Mehtab Sandu, Certified Law Student, argued for respondent. Mr. Hinkle replied. Cause submitted.

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August 9, 2010 (Continued)

**D054909 Paulson et al. v. Paulson**

Cause called on merits. Robin Meadow, Esq. argued for appellant. Dennis A. Page, Esq. argued for respondent. Mr. Meadow replied. Cause submitted.

Court recessed at 2:30 p.m. until Tuesday, August 10, 2010 at 9:00 a.m.

**D057778 In re Cortez on Habeas Corpus**

The petition for writ of habeas corpus has been read and considered by Justices Haller, O'Rourke and Irion. The petition is denied as repetitive because it is identical to the pleading filed as appellant's pro se supplemental opening brief on appeal in No. D056451. The denial is without prejudice.

**D056259 Sharma v. National Enterprises, Inc., et al.**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).) Each party to bear own costs on appeal.

**D057665 In re Durant on Habeas Corpus**

The petition is denied.

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- D057398     In re Dawn R. on Habeas Corpus**  
The petition is denied.
- D056540     In re Joseph R. et al., Juveniles**  
The orders are affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.
- D056449     People v. Castelluzzo**  
The judgment is affirmed. Aaron, J.; We Concur: Haller, Acting P.J., O'Rourke, J.
- D056393     People v. Gorham**  
The judgment is affirmed. Irion, J.; We Concur: Benke, Acting P.J., Haller, J.
- D054492     People v. Mitchell**  
The judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., O'Rourke, J.
- D055123     People v. Allen**  
**D057267     In re Allen on Habeas Corpus**  
The petition for writ of habeas corpus, In re Allen, D057627, is consolidated with the appeal, People v. Allen, D055123, for disposition.
- D055123     People v. Allen**  
**D057267     In re Allen on Habeas Corpus**  
The petition is denied. The judgment is affirmed.  
Irion, J.; We Concur: Benke, Acting P.J., McIntyre, J.
- D057536     Cheryl P. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**  
The attorneys for petitioners Cheryl P. and J.A. have notified the court that petitions for writs of mandate under California Rules of Court, rule 8.452, will not be filed as there are no viable issues for writ review. Counsels' requests, on behalf of petitioners, for extensions of time to file petitions are denied. The case is dismissed.

Court convened at 9:00 a.m.

Present:     The Honorable Alex McDonald, Acting Presiding Justice, and  
                 The Honorable Associate Justices Alex James McIntyre and Cynthia Aaron  
Clerk:        D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D056561     In re Lonnie L. on Habeas Corpus**

Matter called on merits. Charles Francis Carbone, Esq. argued for petitioner. Amy M. Roebuck, Deputy Attorney General, argued for respondent. Mr. Carbone replied. Matter submitted.

**D056286     In re Michael H. on Habeas Corpus**

Matter called on merits. Michael Satris, Esq. argued for petitioner. Kathleen Frey, Deputy Attorney General, argued for respondent. Mr. Satris replied. Matter submitted.

**D055549     Sandell v. Taylor-Lustig, Inc.**

Cause called on merits. Joseph Sol Socher, Esq. argued for appellant. Charles A. Bird, Esq. argued for respondent. Mr. Socher replied. Cause submitted.

Court recessed at 10:23 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present:     The Honorable Judith McConnell, Presiding Justice, and  
                 The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron  
Clerk:        D. Moore

**D055547     Stonier v. Stonier**

Cause called on merits. Harold Edmund Stonier argued telephonically for appellant in pro per. Cause submitted.

**D055614     Rolla v. Cheldin et al.**

Cause called on merits. Douglas J. Crawford, Esq. argued for appellant. Matthew Stuckey, Esq. argued for respondent. Mr. Crawford replied. Cause submitted.

Court recessed at 1:50 p.m. to change panel members.

New panel members:     The Honorable Terry O'Rourke, Acting Presiding Justice, and  
                                         The Honorable Associate Justices Cynthia Aaron and Joan Irion

**D056101     Vail v. Pursehouse**

Cause called on merits. Tomas Michael Flores, Esq. argued for appellant. Deborah Vail argued for respondent in pro per. Mr. Flores replied. Cause submitted.

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Court recessed at 2:15 p.m. to change panel members.

New panel members: The Honorable Judith Haller, Acting Presiding Justice, and  
The Honorable Associate Justices James McIntyre and Cynthia Aaron

**D055839 Holt v. Vessels**

Cause called on merits. Paul Vincent Carelli, Esq. argued for appellant.  
Jonathan Paul Green, Esq. argued for respondent. Mr. Carelli replied.  
Cause submitted.

Court recessed at 2:47 p.m. until Wednesday, August 11, 2010 at 9:00 a.m.

**D057855 Ewing v. Superior Court of San Diego County/The People**

The petition is denied.

**D057710 In re Inglett on Habeas Corpus**

The petition is denied.

**D052978 People v. Archer**

The judgment of conviction for cultivation (§ 11358 [count 1]) is affirmed. The judgment of conviction for simple possession (§ 11357, subd. (a) [a lesser included offense of count 2]) is reversed. In light of our disposition, we conclude it is unnecessary to resolve whether the trial court erred, and whether that error, if any, was prejudicial, when it limited the testimony of Archer's defense expert. Benke, J.: We Concur: McConnell, P.J., Nares, J.

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**D056732    People v. Jones**

The judgment is affirmed. Irion, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D055477    Carson v. Michaels Stores, Inc.**

The request for publication of the opinion is denied.

Court convened at 9:00 a.m.

Present:     The Honorable Alex McDonald, Acting Presiding Justice, and  
              The Honorable Associate Justices James McIntyre and Joan Irion  
Clerk:        D. Moore

**D055252    Mapp v. Brake-Mapp**

Cause called on merits. Timothy Mapp, argued for appellant in pro per.  
Linda Mireya Gonzalez, Deputy Attorney General, argued for respondent,  
telephonically. Mr. Mapp replied. Cause submitted.

Court recessed at 9:10 a.m. to change panel members.

New panel members:    The Honorable Judith Haller, Acting Presiding Justice, and  
                                  The Honorable Associate Justices Alex McDonald and James McIntyre

**D056272    People v. Price**

Cause called on merits. John L. Dodd, Esq. argued for appellant. Steven Riley,  
Certified Law Student, argued for respondent. Mr. Dodd replied. Cause submitted.

Court recessed at 9:32 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present:     The Honorable Judith McConnell, Presiding Justice, and  
              The Honorable Associate Justices Judith Haller and Joan Irion  
Clerk:        D. Moore

**D056972    Center for Biological Diversity et al. v. County of San Bernardino**

Cause called on merits. Douglas Philip Carstens, Esq. argued for appellant.  
Jason Monroe Ackerman, Esq. argued for respondent. Mr. Carstens replied.  
Cause submitted.

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August 11, 2010 (Continued)

**D054674     Pahla Corporation v. Vinci-Pacific Corporation et al.**

Cause called on merits. Donald A. English, Esq. argued for appellant. Patrick Grimm, Esq. argued for respondent, Western Trucking, LLC. Bonnie Hsu, Deputy City Attorney, argued for respondent. Marilyn Perrin, Esq. argued for respondent, Meza. Phillip C. Wing, Esq. argued for respondent, Vinci-Pacific. Mr. English replied. Cause submitted.

Court adjourned at 3:03 p.m.

**D057854     In re Ewing on Habeas Corpus**

The petition is denied.

**D057766     In re Jeffries on Habeas Corpus**

The petition is denied.

**D056630     In re Anthony M, a Juvenile**

The judgment is affirmed. Irion, J.; We Concur: McIntyre, Acting P.J., Aaron, J.

**D055349     People v. Harmon**

The judgment of conviction is affirmed.  
Benke, Acting P.J.; We Concur: Nares, J., Aaron, J.

**D056196     In re A.M. et al., Juveniles**

The orders are affirmed. Benke, Acting P.J.; We Concur: Nares, J., McIntyre, J.

**D056656     Gaer v. BAC Home Loans**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)



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- D054978     People v. Wilder**  
Wilder's conviction of cultivating marijuana is reversed and remanded for further proceedings. Wilder's conviction of possessing marijuana for sale is affirmed.  
Benke, J.; We Concur: Haller, J., Irion, J.
- D055817     McCarthy v. Hyundai Motor America**  
The request for publication of the opinion is denied.
- D056925     In re A.M., a Juvenile**  
The judgment is affirmed.  
McConnell, P.J.; We Concur: McDonald, J., O'Rourke, J.
- D057897     People v. Smith**  
The denial of a petition for writ of habeas corpus is not appealable. The appeal filed on August 6, 2010, is dismissed.
- D057898     People v. Williams**  
The July 7, 2010, superior court order and the notice of appeal have been read and considered by Presiding Justice McConnell and Associate Justices Haller and Irion. The "Order Denying Request for Postsentence Credits" is not an appealable order. The appeal filed on July 30, 2010, is dismissed.
- D057782     In re Munoz on Habeas Corpus**  
The petition is denied.
- D055440     People v. Henry**  
The judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., Haller, J.
- D056300     Conservatorship of the Person of Charles G.**  
The order is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., Haller, J.
- D049038     People v. Cogswell**  
The judgment is affirmed. Benke, Acting P.J.; We Concur: Haller, J., Aaron, J.

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August 13, 2010

- D056716     Riley v. Valencia**  
We affirm the judgment. Valencia shall recover her costs on appeal.  
Nares, J.; We Concur: Benke, Acting P.J., Aaron, J.
- D057089     In re Maria S., a Juvenile**  
The order is affirmed. Benke, J.; We Concur: McConnell, P.J., Haller, J.
- D057869     Hennessey's Tavern, Inc. v. Superior Court of San Diego County/Brewer**  
The petition is denied.
- D057863     City of San Diego et al. v. The Superior Court of San Diego County/East Elliot  
Land Company, LLC et al.**  
The petition is denied.
- D057864     City of San Diego et al. v. The Superior Court of San Diego County/East Elliot  
Land Company, LLC et al.**  
The petition is denied.